

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

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UNITED STATES OF AMERICA

v.

CHRISTOPHER CANTWELL

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20-cr-06-01-PB
January 11, 2021
11:01 a.m.

TRANSCRIPT OF TELEPHONE CONFERENCE
BEFORE THE HONORABLE PAUL J. BARBADORO

APPEARANCES:

For the Government:

Anna Z. Krasinski, AUSA
U.S. Attorney's Office

For the Defendant:

Eric Wolpin, Esq.
Jeffrey Levin, Esq.
Federal Defender Office

Court Reporter:

Susan M. Bateman, RPR, CRR
Official Court Reporter
United States District Court
55 Pleasant Street
Concord, NH 03301
(603) 225-1453

1 P R O C E E D I N G S

2 THE CLERK: For the record, this is United States
3 of America versus Christopher Cantwell, criminal case
4 No. 20-cr-6-PB.

5 THE COURT: All right. Let me ask Mr. Levin or
6 whoever is on the phone from the defense, how's Mr. Cantwell
7 doing?

8 MR. WOLPIN: I think I spoke with him on Friday,
9 this is Attorney Wolpin, and he has been symptomatic but not I
10 mean requiring hospitalization or anything to that extreme,
11 but he was symptomatic last week.

12 THE COURT: Was he starting to get better or what
13 was the status of his condition over time?

14 MR. LEVIN: Yeah, my sense is, yes, he's -- they
15 moved him to -- he's now in a dual cell with another positive
16 individual, and my sense is it was on the upswing when we were
17 talking last week.

18 THE COURT: Uh-huh. Uh-huh.

19 Well, I've consulted with the Clerk about this and
20 reviewed the guidance we have from our expert as well as the
21 CDC and state information. It appears likely to me that he
22 will be in a position that he could be sentenced on the 22nd
23 notwithstanding his COVID diagnosis because he will have
24 recovered and would not be contagious at that point in all
25 likelihood, but I do have a larger concern about whether it

1 makes sense to go forward.

2 I'm very concerned about holding public hearings
3 right now because of the significance of the pandemic in our
4 communities. The risk of infection is just much higher than
5 it was several months ago.

6 And so I'm thinking about whether it makes sense to
7 postpone the sentencing for about a month to see if the
8 prevalence numbers will come down sufficiently that the risk
9 of transmission is reduced.

10 Also, by the end of February the court security
11 officers in our building and the Marshal Service employees and
12 people who will be involved in overseeing the defendant and
13 managing the public will all have been vaccinated by that
14 point and so they would be at much reduced risk if I were to
15 postpone the sentencing until that date.

16 Let me ask what the parties think about that. I'll
17 first hear from the defense and then from the government.

18 MR. WOLPIN: I think from our client's perspective
19 ideally we would be going forward as scheduled. I don't know
20 that I have a lot more to add beyond that.

21 THE COURT: Okay. So your current desire would be
22 to try to do it in late January?

23 MR. WOLPIN: Yes.

24 THE COURT: Yeah, the problem isn't in my mind the
25 risk that your client poses to court employees. It's the risk

1 that members of the public pose to court employees when I do
2 hold a public hearing. I haven't held a public hearing in
3 court for several months. I've been reluctant to do it right
4 now because the prevalence numbers are so high.

5 What's the government's reaction?

6 MS. KRASINSKI: Looking at the COVID numbers, you
7 know, I certainly think that it makes sense to postpone it,
8 but I understand the defendant's position given that he's the
9 one who's in custody. But for our safety, for court
10 security's safety, the government certainly wouldn't have an
11 objection to a continuance.

12 THE COURT: All right. Well, Mr. Wolpin, I think
13 you should have an opportunity to consult with your client
14 about it.

15 What I'm proposing is to move the sentencing off by
16 a month. At that point even if I -- even if the prevalence
17 numbers remain high in the community, at that point all of my
18 officers will have been vaccinated and will be at low risk
19 of acquiring the disease, and I think that even if the
20 prevalence numbers are high, I can find a way to safely
21 conduct the hearing.

22 I won't be vaccinated, my case manager won't be
23 vaccinated, the defense attorney and the prosecutor won't be
24 vaccinated, but I do believe the people that will have to have
25 the closest contact with the public will be vaccinated.

1 So I would be willing -- unless the pandemic
2 numbers exploded even further between now and then, I would be
3 willing to hold the hearing in late February with appropriate
4 precautions.

5 So what I'm proposing to do is to continue the
6 hearing for approximately a month. I should give you an
7 opportunity to object to that after consulting with your
8 client. So why don't I state -- my proposal is to continue
9 the hearing for about a month, and I would ask that if the
10 defendant has an objection that an objection be filed by the
11 end of the day on Friday. I'll review the objection and then
12 make the appropriate ruling.

13 Do you have anything else, Mr. Wolpin, you would
14 like to say about the matter now?

15 MR. WOLPIN: No. Not at this time. Thank you.

16 THE COURT: Okay. Anything else from the
17 government?

18 MS. KRASINSKI: No, your Honor. Thank you.

19 THE COURT: Okay. So I'll just look for a response
20 from you by Friday, or if you're not going to file one, then
21 I'll just go ahead and move the case. But if you file a
22 response, I'll review it before making a final decision.

23 Okay. That concludes the call. Thank you
24 everyone.

25 MR. LEVIN: Thanks.

1 MR. WOLPIN: Thank you.

2 THE COURT: Bye-bye.

3 (Conclusion of hearing at 11:08 a.m.)

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C E R T I F I C A T E

I, Susan M. Bateman, do hereby certify that the foregoing transcript is a true and accurate transcription of the within proceedings, to the best of my knowledge, skill, ability and belief.

Submitted: 5-4-21

/s/ Susan M. Bateman
SUSAN M. BATEMAN, RPR, CRR